



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

EAG/JDG/CNC
F.#2004R00526

*271 Cadman Plaza East
Brooklyn, New York 11201*

January 28, 2013

By ECF

The Honorable Kiyo A. Matsumoto
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Gaetano Fatato
Criminal Docket No. 04-197 (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter in connection with sentencing in the above-referenced case, which is scheduled to take place on February 1, 2013 at 4:00 p.m., and in response to the defendant's sentencing letter dated January 23, 2013. (See Ltr. from Eric Creizman, Esq., to the Court, dated Jan. 23, 2013 (Docket Entry No. 29) ("Def.'s Ltr.")). The government has previously submitted a motion dated January 16, 2009 pursuant to Section 5K1.1 of the United States Sentencing Guidelines (the "Guidelines") and Title 18, United States Code, Section 3553(e) (the "January 16, 2009 5K Motion"), as well as a supplemental letter dated September 5, 2012, which detailed Fatato's cooperation since the government submitted the 5K Motion (the "September 5, 2012 5K Letter"). In his sentencing letter, the defendant Gaetano Fatato moves the Court for a non-Guidelines and non-custodial sentence. (See Def.'s Ltr. at 4-6).

For the reasons set forth in both the January 16, 2009 5K Motion and the September 5, 2012 5K Letter, the government moves the Court, in its discretion, to impose a sentence below the applicable mandatory minimum sentence and Guidelines range due to Fatato's substantial assistance to the government. As the Court is aware, pursuant to the terms of its cooperation

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agreement with Fatato, the government declines to recommend a specific sentence to be imposed.

Respectfully submitted,

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United States Attorney

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James D. Gatta
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Assistant U.S. Attorneys

cc: Eric Creizman, Esq.
Clerk of the Court (KAM) (by ECF)